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UNITED STATES DISTRICT COURT

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DISTRICT OF NEVADA

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MANE SHAH,

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Plaintiff,

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Case No: 2:14-cv-00624-GMN-NJK

15

v.

)

16

DEPARTMENT OF JUSTICE,

)

17

Defendant.

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JOINT MOTION TO ESTABLISH BRIEFING SCHEDULE

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21 Pursuant to Local Rule 16-1(c)(1), Plaintiff Mane Shah and Defendant Department of Justice,
22 jointly move for entry of the following order establishing a Briefing Schedule. This action is filed
23 pursuant to and is governed by the Administrative Procedure Act, 5 U.S.C. §§ 701-706, therefore:

24 1. Within fourteen (14) days after entry of this order Defendant shall file with the Court in
25 nonelectronic form, one copy of the administrative record of the decision at issue in this matter.

26 Defendant will also provide one copy of the administrative record to Plaintiff.

1 2. Within thirty (30) days of the filing of the administrative record, Plaintiff shall file his
2 principal brief in the form of a motion for summary judgment.

3 3. Within thirty (30) days of the filing of Plaintiff's brief, Defendant shall file a brief in
4 opposition which will be deemed a cross-motion for summary judgment.

5 4. Plaintiff may file a reply to Defendant's opposition no later thirty (30) days after the
6 filing of Defendant's opposition.

7 In support of the motion, Plaintiff and Defendant submit the following:

8 1. This action seeks judicial review of the Department of Justice's denial of a request for
9 information pursuant to 28 C.F.R. § 16.22 *et seq.* Plaintiff is the defendant in a state court criminal
10 proceeding in the Eighth Judicial District of Nevada, Case No. C-13-292772-1, before the Honorable
11 Judge Jerome Tao. Plaintiff, a physician, faces criminal charges related to allegations made by an
12 elderly patient, including one count of sexual assault, one count of attempted sexual assault, and two
13 counts of open or gross lewdness.

14 2. On January 10, 2013, Plaintiff took a polygraph test administered by the Federal Bureau
15 of Investigation ("FBI"), which is part of the Department of Justice. The State of Nevada provided
16 Plaintiff with a copy of a report from the FBI's polygraph examination. On March 10, 2014, Plaintiff
17 submitted a request pursuant to 28 C.F.R. § 16.22 for the raw polygraph data, charts, and graphs
18 underlying the report from the FBI. On March 28, 2014, the United States Attorney for the District of
19 Nevada informed Plaintiff that the Department of Justice would not produce the raw polygraph data
20 because it is privileged information pursuant to 28 C.F.R. § 16.26(b)(5), and requested that Plaintiff
21 withdraw his request. Instead, Plaintiff filed this action on April 23, 2014, challenging the United States
22 Attorney's decision.

23 3. Plaintiff and Defendant agree that the scope of the Court's review of that decision is
24 governed by 5 U.S.C. §§ 701-706, that no discovery is required in this action, and that it may proceed on

25 . . .

26 . . .

1 a review of the administrative record for the Department of Justice's March 28, 2014 decision to deny
2 Plaintiff's March 10, 2014 request.

3 Dated this 10th day of July, 2014

4 DANIEL G. BOGDEN
United States Attorney

5 /s/ Robert Z. Demarco
6 DAVID Z. CHESNOFF
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7 ROBERT Z. DEMARCO
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/s/ Troy K. Flake
TROY K. FLAKE
Assistant United States Attorney

Attorneys for the United States

9 *Attorneys for Plaintiff*

10 **ORDER**

11
12 IT IS SO ORDERED.
13 DATED: July 11, 2014.



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15 NANCY J. KOPPE
United States Magistrate Judge